

Docket: 2015-1068(IT)G

BETWEEN:

RICHARD COOPER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2015-1070(IT)G

AND BETWEEN:

ESTATE OF THE LATE PETER M. COOPER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2015-1069(IT)G

AND BETWEEN:

MARSHALL COOPER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

The Honourable Mr. Justice Randall S. Boccock

RECUSAL ORDER

IN ACCORDANCE with the attached reasons, on the Court's own motion, I am recusing myself as case management judge in respect of these appeals and the

appeals are referred back to the Chief Justice of this Court for the assignment of a new case management judge, all as he deems appropriate.

Signed at Ottawa, Canada, this 10th day of March 2017.

“R.S. Boccock”

Boccock J.

Citation: 2017 TCC 36
Date: 20170310
Docket: 2015-1068(IT)G

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RICHARD COOPER,

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AND BETWEEN:

ESTATE OF THE LATE PETER M. COOPER,

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AND BETWEEN:

MARSHALL COOPER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR RECUSAL ORDER

Bocock J.

[1] I am seized as case management judge of these appeals.

[2] For the reasons which follow, I have, of my own motion, recused myself from all further action as case management judge.

[3] On Saturday, March 4th, 2017, I received an email. It referenced a CBC television programme, the Fifth Estate, and a tax judge. As a result, I then viewed a replay of that programme which had aired the night before.

[4] In that programme, these appeals were referenced. So was my role as case management judge for these appeals. In addition, the programme indicated that a law firm, Fraser Milner Casgrain (now Denton's), was somehow involved in these appeals. The programme also referenced a reception hosted by that law firm at a tax conference I attended in September, 2016. My wife and I briefly attended that reception, open to conference attendees and their guests. I was aware of all these facts, but not the fact that law firm Fraser Milner Casgrain (now Denton's) was referenced anywhere in these appeals.

[5] On Monday, March 6th, I returned to my office. I checked my judge's files related to these appeals. As a result of that review, I discovered a single reference to that law firm in the appellants' notices of appeal. After that discovery, I then ceased all further action as case management judge for these appeals, save taking steps to recuse myself.

[6] I am advised that a preliminary investigation has been commenced by the Canadian Judicial Council. Whether reference to that law firm in these appeals and my attendance at the reception is material, important or relevant to my conduct in these appeals is for the Canadian Judicial Council to determine. Making such a determination is mandated, fair and appropriate for that proper body. That process will unfold as it should.

[7] The Tax Court serves the people of Canada. I serve the Tax Court for that purpose alone. In these appeals, the respondent and appellants comprise the people of Canada. One seeks to protect the country's tax revenue and the others seek to challenge the tax assessments. Where there is an investigation into my conduct specifically connected to these appeals, my purpose as servant of the Court and people of Canada in these appeals has been questioned. This is justification and cause for recusal.

[8] Similarly, justice must be done and seen to be done. This is true for the people of Canada, the parties to this appeal and the Tax Court of Canada. I fundamentally believe in these principles as a tax judge, taxpayer and Canadian.

Although to date I have not been asked to rule on any matters in dispute in these appeals, I could be in the future. This is another reason for recusal.

[9] At present, through the hard work of counsel, these appeals are proceeding accordingly in the usual adversarial, but civil manner. There appears to be no urgent need of the parties for the immediate services of a case management judge. Therefore, my immediate recusal will not harm the present process.

[10] For all these reasons, as of March 6th 2017, I recused myself from any further involvement in these appeals. The only exception to that was to determine how best to carry out that recusal: a case management conference or issuance of this Order with Reasons. Ultimately, I have issued this Order and published the Reasons on the record. I have done that in order to explain to the appellants and the respondent precisely why I have recused myself.

[11] My order for recusal also states that these matters be returned to the Chief Justice of the Tax Court of Canada who will assign a new case management judge to the appeals, as he deems appropriate.

Signed at Ottawa, Canada, this 10th day of March 2017.

“R.S. Boccock”

Boccock J.

CITATION: 2017 TCC 36

COURT FILE NOs.: 2015-1068(IT)G, 2015-1070(IT)G, 2015-1069(IT)G

STYLE OF CAUSE: RICHARD COOPER, ESTATE OF THE LATE PETER M. COOPER, MARSHALL COOPER AND HER MAJESTY THE QUEEN

REASONS FOR ORDER BY: The Honourable Mr. Justice Randall S. Boccock

DATE OF ORDER: March 10, 2017

COUNSEL OF RECORD:

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